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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/771,724

02/04/2004

Naofumi Kobayashi

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EXAMINER

ENG, DAVID Y

ART UNIT

PAPER NUMBER

2155

MAIL DATE

DELIVERY MODE

06/16/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/771,724	KOBAYASHI, NAOFUMI	
	<b>Examiner</b>	<b>Art Unit</b>	
	DAVID Y. ENG	2155	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 27 February 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) 20,21,24 and 25 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19,22 and 23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>1/22/2008</u> .   | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

Claims 1-25 are pending. Claims 20-21 and 24-25 are withdrawn from consideration. The active claims are 1-19 and 22-23. Applicants are requested to cancel claims 20-21 and 24-25.

#### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 4-18, and 23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The recitation “to transform each copy data into unicast data” is vague and indefinite. It is not clear what is done to the data in order to become unicast data.

#### ***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-19 and 22-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hejna (USP 6,934,759) in view of Sandstrom (USP 7,254,138).

See at least the description in lines 33-59 of column 10 in Hejna. Hejna teaches:

**Claims 1, 2, 4, 5, 7, 19, 22, 23**

A data generating device (Figure1 or 7) installed on an upstream side of a switching device (network 3990 and its servers, gateways and routers, etc.) (since the outputs of devices shown in Figure 7 are for outputting data to network 3990, they are at the upstream side) for performing switching based on data of a first layer, comprising:

reading unit (the circuit in Hejna which reads the recipient list) to read forward management information (recipient list) relating to a forwarding process (broadcast) of forward data (column 9/lines44-48) from data of a second layer higher than the first layer;

storage unit (the buffer in Hejna which stores the read out recipient list) to store the forward management information read by said reading unit;

data generating (media broadcast server 2000 of Figure 1 or multi-caster 3300 of Figure 7, column 10/ line 33-59) unit to identify one or more clients (recipients), each of which corresponds to a forward destination of the forward data, on the basis of the forward management information (recipient list, column 10/line 41) stored in said storage unit, and generating the same number of pieces of transmission data as the number of identified clients (inherent in multicast), wherein each of the pieces of transmission data includes equivalent contents to the forward data; and

forwarding unit (media broadcast server 2000 of Figure 1 or processor 3500 of Figure 7, column 10/line 60 to column 11/line11) to forward each piece of transmission data generated by said data generating unit to the switching device in order to transmit each piece of transmission data to each client corresponding to the forward destination.

Hejna does not teach data of layers. It is well known in network art that network communication is implemented in layers. Sandstrom teaches an OSI protocol (abstract) multicast system operated in layers. From the teaching of Sandstrom, it would have been obvious to a person of ordinary skill in the art that Hejna's system is implemented in layers. Further, Applicants recognize that LAN is a layer 2 switch. Hejna is a LAN network (column 8/line39).

**Claims 3,**

Addresses are inherently required in network communication.

**Claims 6, 12 , 13, 14, 15, 16,**

The "wherein clauses" merely consist of non-functional descriptive material. As to claim 6, further see also MAC protocol in column 21/line 34 in Sandstrom.

**Claims 8, 9, 10, 11,**

Up date is inherent in a system like Hejna. The device being used for enter data in the system of Hejna can be considered as an update unit.

**Claims 17, 18**

Addresses of destination and source are inherent in communication system because they are essential. As to timing, see the description of rebroadcast interval determiner 3700 in Figure 7.

**Response**

In the communication filed on 2/27/2008, Applicants contended that Hejna don't disclose the use of forward management information. The Examiner disagrees. The

claims are amended to recite that the forward management information is used to identify clients and to generate number of copies of transmission data. See the description of recipient list in column 10, lines 45-59 of Hejna. In Hejna, data stream is broadcasted to recipients according to the retrieved recipient list.

Applicants further contended that their claimed data generating unit is different than Hejna's because Hejna is multicast. The Examiner disagrees. In both inventions, data is forwarded or broadcasted to the recipients according to the read out recipient list (see the recitation of reading unit and data generating unit). In both inventions, each recipient receives the identical copy (see the recitation "generating the same number of pieces of transmission data as the number of identified clients" and "wherein each of the pieces of transmission data includes equivalent contents to the forward data). In both inventions (the invention recited in all independent claims and Hejna's) all the recipients in the list receive the identical copy of the transmitted or broadcasted data (see the recitation of claim 4 "identify clients **based on the forward management information**" and "to generate the **same number of copies** as the number of identified clients"). Further, there is no positive recitation that the data is transmitted unicastly to each of the clients.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DAVID Y. ENG whose telephone number is 571-272-3984. The examiner can normally be reached on M-F from 8AM to 3PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, SALEH NAJJAR, can be reached on 571-272-4006. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/DAVID Y. ENG/

Primary Examiner, Art Unit 2155

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